

REMARKS

Claims 1, 2, 5, 6-14, 42, 45-47, 51-80 are pending. New claims 66-80 are based on claims 52-65 and do not contain new matter. Claim 17 is deleted so that it is no longer redundant over claim 12.

Amendments to the Claims

Applicants have amended claims 1, 6 and 42 to delete reference to RRQRRQRR (SEQ ID NO:98).

Applicants have deleted claim 17.

Applicants have amended claims 47 and 65 to recite "...Vpv and Rev."

This amendment corrects the claim form and constitutes no new matter.

Applicants have added claims 66-80, which are based on allowed claims 52-65 but which claim the sequence of a peptide RRQRRQRR (SEQ ID NO:98). The claims are fully supported by the original specification and do not constitute new matter. Their entry is requested.

Applicants respectfully request entry of the above amendments.

The Objection to the Claims

The Examiner has objected to claim 17 for allegedly failing to further limit claim 12. Applicants have deleted claim 17, rendering the objection thereto moot.

The Rejections under 35 U.S.C. §102(b)

The Examiner has rejected claims 1, 2 and 5 under 35 U.S.C. §§102(b) and 102(e). The Examiner alleges that International Patent Publication No. WO98/44147 (published October 1998) (the “‘147 application”) and U.S. Patent No. 5,989,814 (filed April 1, 1997) (the “‘814 application”) both teach an amino acid sequence of RRQRRQRR. The Examiner further alleges that International Patent Publication No. WO97/41252 (published November 1997) (the “‘252 application”) and U.S. Patent No. 6,680,170 (effective filing date April 14, 1998) (the “‘170 application”), teach an amino acid sequence of RRQRRQRR. To expedite prosecution, Applicants have canceled the recitation of “RRQRRQRR (SEQ ID NO:98)”. As amended, Applicants assert that the claims are not anticipated by the ‘147 application, the ‘814 application, the ‘252 application or the ‘170 application. Accordingly, Applicants respectfully request the Examiner withdraw the rejections under 35 U.S.C. §102(b).

The Nonstatutory Double Patenting Rejection

The Examiner has provisionally rejected claims 1, 2, 5-14, 17, 42, 45-47 under a provisional, obviousness-type double patenting, as being unpatentable over claims 1-15 of copending application No. 10/366,493 (the “‘493 application”). The Examiner has also rejected claims 1, 2 and 5 under the under the same double patenting rejection, as being unpatentable over claim 22 of copending application No. 10/650,435 (the “‘435 application”). The Examiner states that a timely filed terminal disclaimer may overcome these rejections, provided the conflicting application or patent is shown to be commonly owned with this application.

Applicants have canceled claim 17, rendering the rejection thereof moot. Moreover, Applicants submit herewith a Terminal Disclaimer signed by the undersigned. Applicants note that an Assignment of the instant application was recorded at Reel 013265, Frame 0801 on September 9, 2005, assigning the invention to the University of Pittsburgh. A copy of the Assignment and Notice of Recordation of Assignment is attached herewith at Exhibit 1.

Applicants further note that an assignment of the '435 application was recorded at Reel 014769, Frame 0359 on December 8, 2003. A copy of the Assignment and Notice of Recordation of Assignment is attached herewith at Exhibit 2.

Applicants submit herewith a copy (at Exhibit 3) of an assignment of the '493 application, which is concomitantly being submitted for recordation in the United States Patent and Trademark Office.

By virtue of the above-identified assignments assigning the inventions to the University of Pittsburgh, Applicants have established common ownership of the conflicting patent applications and the instant application. As such, Applicants respectfully request entry of the Terminal Disclaimer and withdrawal of the provisional nonstatutory double patenting rejection of claims 1-2, 5-14, 42 and 45-47

Allowable Subject Matter

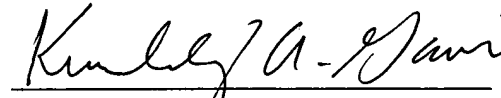
The Examiner stated that claims 51-65 are allowed.

Conclusion

Applicants earnestly request that the Examiner consider the above remarks, enter the amendments, and allow the claims to issue.

Applicants believe that no additional fee is due in connection with the filing of this Response. However, Applicants authorize, in the Fee Transmittal Form (submitted herewith in duplicate) the Director to charge payment of any additional fees or credit any overpayment associated with this Response to Deposit Account No. 02-4377.

Respectfully submitted,



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